

**Department of Health and Human Services
Health Care Financing Administration**

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Operational Policy Letter #: 2000.122

To: Current M+C Organizations X

CHPP Demonstrations:

Evercare

DoD (TriCare) X

SHMO I & II X

PACE

Medicare Choices

OSP Demonstrations:

MSHO

W.P.S.

HCPPs

Federally Qualified HMOs

Section 1876 Cost Plans X

**Subject: Clarification of Medicare+Choice (M+C) Eligibility Policy for Individuals
with End Stage Renal Disease (ESRD) Who Have Received Kidney Transplants**

Effective Date: Upon Publication

Implementation Date: Upon Publication

Introduction

This operational policy letter (OPL) clarifies a Medicare+Choice (M+C) eligibility policy for individuals with end stage renal disease (ESRD) who have received a transplant which restores kidney function, and who also no longer require a regular course of dialysis to maintain life. For M+C eligibility purposes, these individuals are not considered to have end stage renal disease and are therefore eligible to elect a M+C plan, if they meet all other eligibility requirements.

Background

Under the Balanced Budget Act of 1997 (BBA), section 1851(a)(3)(B) of the Social Security Act (the Act) states that individuals who are “medically determined to have ESRD” are not eligible to elect enrollment in an M+C plan. In 42 CFR 406.13, HCFA defines ESRD as “that stage of kidney impairment that appears irreversible and permanent and requires a regular course of dialysis or kidney transplantation to maintain life.”

Section 226A(b)(2) of the Act and regulations at 42 CFR 406.13(f) state that an individual’s entitlement to Medicare on the basis of ESRD shall end 12 months after the month in which a regular course of dialysis ends or 36 months after the month of a kidney transplant. Prior to passage of the BBA, HCFA applied these time frames to determine an individual’s ESRD status for purposes of eligibility to enroll in an HMO under a section 1876 risk contract (for which individuals with ESRD were similarly ineligible). Thus, an individual who received a kidney transplant would have been considered to have ESRD for 36 months following the month of the transplant, and would therefore not have been eligible to enroll in a plan until after this time frame elapsed.

As the result of decisions by M+C organizations to no longer contract with Medicare, or to reduce the areas within which they contract, there have been disruptions of continuity of care for beneficiaries with ESRD who are enrolled in M+C plans. In light of these developments, HCFA has re-evaluated its policies regarding beneficiaries with ESRD. With regard to the issue of transplants, we have determined that an individual who receives a transplant which restores kidney function should not be considered to have ESRD for purposes of M+C eligibility. From a clinical perspective, this individual no longer requires regular kidney dialysis or a transplant to maintain life. Thus, such an individual should be eligible to elect a M+C plan, if he/she meets other applicable eligibility requirements.

Policy

An individual who receives a transplant which restores kidney function and who no longer requires a regular course of dialysis to maintain life is not considered to have ESRD for purposes of M+C eligibility. Such an individual may elect to enroll in a M+C plan, if he/she meets other applicable eligibility requirements. In order for a M+CO to accept the enrollment, the individual must make the election during an election period (see OPL99.100 for a discussion of M+C election periods).

When completing the section of the enrollment form that asks if an individual has ESRD, the individual should check “no,” as he/she no longer requires regular kidney dialysis or a transplant to stay alive (see Exhibits 1 and 2 of OPL99.100 for model enrollment forms). If the M+CO is aware that the individual has received a kidney transplant (e.g., the individual informs the M+CO that this has occurred), then the M+CO should request that the individual submit medical documentation (i.e., a letter from the physician that documents that the individual has received a kidney transplant and no longer requires a regular course of dialysis to maintain life). Upon receipt of this documentation, the M+CO should enroll the beneficiary using the procedures described below. If the M+CO is not aware that the individual has received a kidney transplant

at the time the enrollment form is submitted, then the M+CO will have to investigate further following the enrollment rejection, as explained below.

Because the Renal Beneficiary and Utilization System (REBUS) maintains an individual's ESRD entitlement status for 36 months following the month of a transplant, attempting to enroll an individual prior to completion of the 36-month time frame will result in a system rejection, i.e., either a "code 45" or a "code 15" rejection on the Group Health Plan (GHP) Monthly Transaction Reply Report, unless the enrollment transaction includes the ESRD override code. Therefore, the M+CO must transmit the enrollment using the ESRD override code "F" in position 80 of the enrollment transaction.

If an individual indicates on the enrollment form that they do not have ESRD but the reply listing contains a "code 45" or "code 15" rejection, the M+CO should investigate further. A "code 45" indicates a rejection based on ESRD status, and a "code 15" indicates a canceled enrollment (this can occur when the M+CO successfully enrolls an individual with ESRD prior to the ESRD indicator showing up in the GHP, even though the individual had ESRD prior to the enrollment.) If the individual has received a kidney transplant which has restored kidney function and the individual no longer requires a regular course of dialysis to maintain life, then the individual must be permitted to enroll in the M+C plan, if other applicable eligibility requirements are met.

When this occurs, the M+CO must contact its HCFA regional office (RO) to override the system rejection. The following documentation must be submitted to the RO:

1. Evidence of contact with the individual after the system rejection, including the individual's explanation for rejection (i.e., successful transplant) and medical documentation, i.e., a letter from the physician that documents that the individual has received a transplant that has restored kidney function.
2. A copy of the Transaction Reply Report or, if contracting with Litton/MCI World Comm Advanced Networks, a report indicating the M+CO's attempts to enroll the individual and the resulting rejection.

To obtain documentation to override the rejection, the M+CO should contact the individual to request the information. If the contact is made orally, the M+CO must document the contact and retain the documentation in its records. The M+CO must explain to the individual that he/she has 30 days in which to submit medical documentation of the kidney transplant or the enrollment will be rejected. If the documentation is not received within 45 days of request (i.e., after allowing for the 30 days plus an additional 15 days for information to be received and logged in by the M+CO), the M+CO must reject the enrollment.

If the individual provides the necessary documentation within the above timeframes, the M+CO must submit the information to the appropriate Regional Office who will override the rejection to allow the individual to enroll in the plan. If the individual is not eligible for Medicare on a basis other than ESRD status (i.e., based on disability or age), the individual would only be permitted

to remain enrolled as an M+C enrollee during his or her remaining months of Medicare eligibility. **The ESRD indicator will remain in the system for entitlement purposes.**

In addition, M+COs will continue to be paid at the ESRD rate for as long as they still have Medicare eligibility on the basis of their former ESRD status. This is because the costs of individuals who have had kidney transplants were included in determining this ESRD rate for the 1997 base period employed in the M+C payment methodology. This rate is based on an actuarial average of costs under Original Medicare for individuals at all stages of chronic renal disease, including the post-transplant stage. Since individuals in this category are thus part of the ESRD “rate cell”, we believe it is appropriate to continue to pay the rate cell amount even though the individuals no longer have ESRD. Payment will be made at this rate for 36 months following the month of a transplant (the length of time after a transplant for which costs are included in the ESRD rate cell).

Contact: Regional Office Managed Care Staff

This OPL was prepared by the Center for Beneficiary Services.